

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|---------------------------|---|--------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | 4:04CR3105 |
| vs. |) | |
| |) | PRELIMINARY ORDER |
| PATRICK BURKE, |) | OF FORFEITURE |
| |) | |
| Defendant. |) | |

NOW ON THIS 19th day of April, 2005, this matter comes on before the Court upon the United States' Motion for Issuance of Preliminary Order of Forfeiture and Memorandum Brief. The Court reviews the record in this case and, being duly advised in the premises, finds as follows:

1. In Count II of said Information filed in this case, the United States seeks forfeiture of the following property, pursuant to 18 U.S.C., § 2253:

(a) DIT Computer (Tower), no serial number, including all hard drives and disk drives contained in the computer processing unit;

(b) Black Generic computer Tower, no serial number including all hard drives and disk drives contained in the computer processing unit;

(c) Envision computer monitor, serial number SUGG1CB072786;

(d) Microsoft computer keyboard, serial number 5157700794313;

(e) Canon scanner, serial number UYR681293;

(f) KDS Radius Flatscreen Monitor, Model 780, serial number E7YZCB03019U, with adapter, serial number A2024N00103;

(g) Miscellaneous computer cords, wires and power supplies;

(h) Digital Camera and Webcam, Model number PDD230;

(i) Sony Cybershot Digital Camera, serial number 187308, and 32 MB memory stick.

on the basis these items were used or were intended to be used in any manner to promote the commission of the aforementioned violation of 18 U.S.C. §2252(a)(4)(B), charged in Count I of the Indictment.

2. The Defendant has entered into a Plea Agreement, whereby he has agreed to plead guilty to Counts I and II of said Information. Count I of said Information charges the Defendant with receipt of child pornography, a violation of 18 U.S.C., § 2252(a)(2). Count II of said Information charges the Defendant with using the personal property described above in paragraph 1., above, in any manner to promote the commission of the aforementioned violation of 18 U.S.C. §2252(a)(4)(B).

3. By virtue of said plea of guilty, the Defendant forfeits his interest in the subject property, and the United States should be entitled to possession of said property, pursuant to 18 U.S.C., § 2253.

4. The United States' Motion for Issuance of Preliminary Order of Forfeiture should be sustained.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

A. The United States' Motion for Issuance of Preliminary Order of Forfeiture is hereby sustained.

B. Based upon Count II of the Information and the Defendant's plea of guilty, the United States Marshal for the District of Nebraska ("Marshal") is hereby authorized to seize the following-described property:

(a) DIT Computer (Tower), no serial number, including all hard drives and disk drives contained in the computer processing unit;

(b) Black Generic computer Tower, no serial number including all hard drives and disk drives contained in the computer processing unit;

(c) Envision computer monitor, serial number SUGG1CB072786;

(d) Microsoft computer keyboard, serial number 5157700794313;

(e) Canon scanner, serial number UYR681293;

(f) KDS Radius Flatscreen Monitor, Model 780, serial number E7YZCB03019U, with adapter, serial number A2024N00103;

(g) Miscellaneous computer cords, wires and power supplies;

(h) Digital Camera and Webcam, Model number PDD230;

(i) Sony Cybershot Digital Camera, serial number 187308, and 32 MB memory stick.

C. Defendant's interest in said property is hereby forfeited to the United States of America for disposition in accordance with the law, subject to the provisions of 18 U.S.C., § 2253.

D. All of the aforementioned forfeited property is to be held by the Marshal in his secure custody and control.

E. Pursuant to 18 U.S.C., § 2253, the Marshal forthwith shall publish at least once for three successive weeks in a newspaper of general circulation, in the county where the subject property lies, notice of this Order, notice of the Marshal's intent to dispose of the property in such manner as the Attorney General may direct and notice that any person, other than the Defendant, having or

claiming a legal interest in any of the subject forfeited property must file a petition with the court within thirty (30) days of the final publication of notice or of receipt of actual notice, whichever is earlier.

F. Said published notice shall state the petition referred to in Paragraph E, above, shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the property, shall be signed by the petitioner under penalty of perjury, and shall set forth the nature and extent of the petitioner's right, title or interest in the subject property and any additional facts supporting the petitioner's claim and the relief sought.

G. The United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property subject to this Order as a substitute for published notice as to those persons so notified.

H. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture pursuant to 18 U.S.C., § 2253, in which all interests will be addressed.

ORDERED this 19th day of April, 2005.

BY THE COURT:

s/ RICHARD G. KOPF
United States District Court Judge